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SENATE BILL 687

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Leonard Tsosie

AN ACT

RELATING TO THE COURTS; PROVIDING AUTHORITY TO REFUND COURT FEES AND COSTS PAID BY NONINDIGENT CRIMINAL DEFENDANTS WHO ARE FOUND NOT GUILTY OR WHOSE CONVICTIONS ARE OVERTURNED ON APPEAL; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 34, Article 2 NMSA 1978 is enacted to read:

"[NEW MATERIAL] REFUND OF FEES PERMITTED FOR NONINDIGENT CRIMINAL DEFENDANTS.--Fees and costs paid pursuant to Subsection A of Section 34-2-5 NMSA 1978 by a nonindigent criminal defendant whose conviction is overturned shall be refunded upon request."

Section 2. Section 34-5-6 NMSA 1978 (being Laws 1966, Chapter 28, Section 6, as amended) is amended to read:

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"34-5-6. COURT OF APPEALS--FEES AND COSTS.--

A. The clerk of the court of appeals shall collect the following fees:

- docket fee, twenty-five dollars (\$25.00) of which shall be deposited in the court automation fund and one hundred dollars (\$100) of which shall be deposited in the court facilities fund \$125.00
- docket fee for cases in which a motion to docket and dismiss the appeal is filed for failure to file a docketing statement, ten dollars (\$10.00) of which shall be deposited in the court automation fund and ten dollars (\$10.00) of which shall be deposited in the court facilities fund 20.00
- single copy of records, per typewritten folio10
- each additional copy of records ordered at same time, per typewritten folio05
- copies of records reproduced by photographic process, per page10
- comparing copies of records tendered to ~~him~~ the clerk, per folio05
- each certificate1.00.

B. No fees or costs shall be required in

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1 proceedings in forma pauperis, from state officers acting in
2 their official capacity or in any other case where a statutory
3 exemption exists.

4 C. Fees and costs paid by a nonindigent criminal
5 defendant whose conviction is overturned shall be refunded upon
6 request.

7 [~~C.~~] D. Except as otherwise specifically provided
8 by law, the clerk of the court of appeals shall pay all fees
9 and costs to the state treasurer for credit to the state
10 general fund."

11 Section 3. Section 34-6-40 NMSA 1978 (being Laws 1968,
12 Chapter 69, Section 42, as amended by Laws 2001, Chapter 277,
13 Section 1 and by Laws 2001, Chapter 279, Section 1) is
14 amended to read:

15 "34-6-40. FINANCE--FEES.--

16 A. District court clerks shall collect in civil
17 matters docketing any cause, whether original or reopened or
18 by appeal or transfer from any inferior court, a fee of one
19 hundred seven dollars (\$107), ten dollars (\$10.00) of which
20 shall be deposited in the court automation fund and twenty-
21 five dollars (\$25.00) of which shall be deposited in the
22 civil legal services fund.

23 B. No fees or costs shall be taxed against the
24 state, its political subdivisions or the nonprofit
25 corporations authorized to be formed under the Educational

.154993.1

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Assistance Act.

C. Fees and costs paid by a nonindigent criminal defendant who is not convicted shall be returned upon request if the state does not appeal within statutory time frames.

~~[G.]~~ D. Except as otherwise specifically provided by law, docket fees shall be paid into the general fund."